

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

DARNELL DOSS,

Plaintiff,

v.

UNITED STATES OF AMERICA,

Defendant.

Case No. 1:22-cv-328

MEMORANDUM ORDER

This civil action was commenced on October 25, 2022 by Plaintiff Darnell Doss, who has brought claims against the United States of America under the Federal Tort Claims Act, 28 U.S.C. §2671, *et seq.* The complaint was filed of record on February 22, 2023. ECF No. [7]. The case has been referred to Chief United States Magistrate Judge Richard A. Lanzillo for pretrial proceedings, in accordance with 28 U.S.C. §636 and Local Civil Rule 72.

On July 14, 2023, the United States filed a motion seeking to dismiss the complaint for lack of jurisdiction or, in the alternative, requesting summary judgment. ECF No. [17]. Judge Lanzillo directed Doss to respond to the motion on or before September 1, 2023. ECF No. 23. Despite numerous extensions of time and an order directing him to show cause for his delinquency, Doss has still not filed any response to the Government's motion. In addition, both the Court and the Government have experienced difficulties effectuating service at Doss's address of record.

On January 22, 2024, Judge Lanzillo issued a Report and Recommendation ("R&R") opining that this case should be dismissed under Rule 41(b) based on Plaintiff's failure to prosecute. Judge Lanzillo's staff apparently mailed copies of the R&R to Plaintiff's address of

record, as well as to an alternative address noted on the docket. The copy of the R&R that was sent to Plaintiff's address of record, *i.e.*, "20072 N. 4th Street, Harrisburg, PA 17108," has been returned to the Court with a notation "Unable to Forward." There is no indication on the docket that the copy of the R&R sent to Plaintiff's unofficial alternative address was returned.

Objections to the R&R were due on or before February 8, 2024. As of this date, no objections have been received.

Accordingly, after *de novo* review of the documents in the case, including the complaint, Defendants' motions to dismiss or, in the alternative, motion for summary judgment, all filings related to the pending motion, and the Chief Magistrate Judge's Report and Recommendation,

IT IS ORDERED, this 20th day of February, 2024, that the within civil action is dismissed with prejudice pursuant to Federal Rule of Civil Procedure 41(b), based on Plaintiff's failure to prosecute his claims.

IT IS FURTHER ORDERED that Defendants' motion to dismiss or, in alternative, motion for summary judgment, ECF No. [17], is DISMISSED as moot.

IT IS FURTHER ORDERED that the Report and Recommendation issued by Chief United States Magistrate Judge Richard Lanzillo on January 22, 2024, ECF No. [30], is hereby adopted as the opinion of this Court.

As there are no additional matters pending before the Court in the within civil action, the Clerk is directed to mark this case "CLOSED."

A handwritten signature in black ink, reading "Susan Paradise Baxter". The signature is fluid and cursive, with a horizontal line drawn underneath the name.

SUSAN PARADISE BAXTER
United States District Judge